

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

EDWARD SHIVELHOOD,

Plaintiff

v.

EUGENE BERDANIER, et al.

Defendants

:
:
:
:
: CIVIL NO. 3:CV-06-0551
:
: (Judge Kosik)
:
:

ORDER

_____ Plaintiff, Edward Shivelhood, at the time an inmate incarcerated at the Schuylkill County Prison, Pennsylvania, filed this civil rights action on March 16, 2006, pursuant to 42 U.S.C. §1983.¹ On May 2, 2006, all named Defendants filed a motion to dismiss. (Doc. 7). A brief in support of the motion was filed on the same date. (Doc. 7, Attach.). To date, Plaintiff has not filed an opposition brief to the motion in accordance with United States District Court, Middle District of Pennsylvania Local Rule 7.6. Therefore, the motion is presently unopposed.

Generally, a dispositive motion may not be granted merely because it is unopposed. See Anchorage Assoc. v. Virgin Islands Board of Tax Review, 922 F.2d 168, 174 (3d Cir. 1990). However, the Third Circuit has held that consistent with local rules of court, a motion to dismiss may be granted without a merits analysis “if a party fails to comply with the rule after a specific direction to comply from the court.” Stackhouse v. Mazurkiewicz, 951 F.2d 29, 30 (3d Cir. 1991). Plaintiff is

¹ On April 7, 2006, Plaintiff advised the court of his new address located in Girardville, Pennsylvania. (Doc. 6.)

therefore advised that he will be afforded additional time to respond to the Defendants' motion to dismiss as provided in United States District Court, M.D.Pa. L.R. 7.6. However, his failure to respond in accordance with the specified time limitation will result in dismissal of the complaint without a merits analysis under the authority of Stackhouse.

ACCORDINGLY, this 1st day of August, 2006, **IT IS HEREBY ORDERED THAT:**

1. In accordance with United States District Court, M.D.Pa. L.R. 7.6, the Plaintiff is directed to file a brief in opposition to the Defendants' motion to dismiss within ten (10) days from the date of this Order.

2. Failure to file a brief in opposition to the motion will result in the motion being deemed unopposed and an order granting the motion to dismiss without a merits analysis will be entered.

s/Edwin M. Kosik

United States District Judge